

2133.01

ORDINANCE NO. C-21-60

To define Traffic terms and for purpose of a traffic code and to declare an emergency.

INTOXICATION; RECKLESS DRIVING:

SPEED

Section 1. Driving while drunk or drugged; evidence. No person who is under the influence of intoxicating liquor, alcohol, narcotic drugs, hypnotic drugs, or opiates, shall operate any motor vehicle, trackless trolley or any other vehicle.

In construing this section, if there was five hundredths of one per cent or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor or alcohol; if there was in excess of five-hundredths of one per cent by weight of alcohol in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor or alcohol, but such fact shall be considered with other competent evidence in determining the guilt or innocence of the defendant; and if there was fifteen-hundredths of one per cent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of alcohol. Evidence of chemical analysis of defendant's blood, urine, breath or other bodily substance may be admitted for the purpose of showing the amount of alcohol in defendant's blood. The foregoing provisions of this section shall not operate to limit the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of intoxicating liquor or alcohol.

Section 2. Physical control of vehicle or trackless trolley while drunk or drugged.

No person who is under the influence of intoxicating liquor, alcohol, narcotic drugs, hypnotic drugs, or opiates, shall be in actual physical control of any motor vehicle, trackless trolley or any other vehicle.

In construing this section, if there was five-hundredths of one per cent or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor or alcohol; if there was in excess of five-hundredths of one per cent

but less than fifteen hundredths of one per cent by weight of alcohol in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor or alcohol, but such fact shall be considered with other competent evidence in determining the guilt or innocence of the defendant; and if there was fifteen-hundredths of one per cent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of alcohol. Evidence of chemical analysis of defendant's blood, urine, breath or other bodily substance may be admitted for the purpose of showing the amount of alcohol in defendant's blood. The foregoing provisions of this section shall not operate to limit the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of intoxicating liquor or alcohol.

Section 3. Reckless driving. No person shall operate a vehicle or trackless trolley without due regard for the safety and rights of pedestrians and drivers and occupants of all other vehicles and trackless trolleys, and so as to endanger the life, limb, or property of any person while in the lawful use of the streets.

Section 4. Speed regulations and limitations. No person shall operate a motor vehicle or trackless trolley in and upon the streets at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface, and width of the street or highway and any other conditions, and no person shall drive any motor vehicle or trackless trolley in and upon any street at a greater speed than will permit him to bring it to a stop within the assured clear distance ahead.

It shall be prima-facie lawful for the operator of a motor vehicle or trackless trolley to operate the same at a speed not exceeding the following:

(a) Twenty miles per hour when passing a school building or the grounds thereof during school recess and while children are going to or leaving school during the opening or closing hours, and when appropriate signs giving notice of the existence of the school are erected;

(b) Twenty-five miles per hour in all other portions of the City, except on State Routes, through streets outside business districts, and alleys;

(c) Thirty-five miles per hour on all State Routes or through streets outside business districts, except as provided in subsections (d) and (e) of this section;

(d) Fifty miles per hour on controlled access streets;

(e) Fifty miles per hour on State Routes outside urban districts unless a lower prima-facie speed is established as provided by Ohio Revised Code.

(f) Fifteen miles per hour on all alleys.

It shall be prima-facie unlawful for any person to exceed any of the foregoing speed limitations. In every charge of violation of this section the affidavit and warrant shall specify the time, place, and the speed at which defendant is alleged to have driven, and also the speed which this section declares shall be prima-facie lawful at the time and place of such alleged violation.

Notwithstanding the above provisions, should the State Director of Highways, or the City Council, under the authority of Ohio Revised Code, ^{4511.21} determine and declare a reasonable and safe prima-facie speed limit different than those stated above, and appropriate signs giving notice thereof are erected in accordance with Ohio Revised Code 4511.21, it shall be prima-facie lawful for the operator of a motor vehicle or trackless trolley to operate the same at a speed not in excess of such designated speed, and it shall be prima-facie unlawful for any person to exceed such speed.

Section 5. Emergency vehicles excepted from speed restrictions. The prima facie speed limitations set forth in G. C. C. 2133.04 shall not apply to emergency vehicles when responding to emergency calls and the drivers thereof sound audible signals, by bell, siren or exhaust whistle.

This provision shall not relieve the driver of an emergency vehicle from the duty to drive with due regard for the safety of all persons using the street.

Section 6. Penalties.

(a) Whoever violates G. C. C. 2133.01 shall be deemed guilty of a misdemeanor and for a first offense shall be fined not exceeding two hundred fifty dollars (\$250.00), or imprisoned for not less than three days nor more than three months, or both. No person shall be charged with a second or subsequent offense unless such fact is set forth in the affidavit charging the offense. Every person who is convicted of a second or subsequent offense shall be fined not exceeding five hundred dollars (\$500.00) or imprisoned for not less than ten days nor more than six months, or both.

No court shall suspend the first three days of any sentence for a violation of G. C. C. 2133.01.

(b) Whoever violates G. C. C. 2133.02 shall be deemed guilty of a misdemeanor and for a first offense shall be fined not exceeding two hundred fifty dollars (\$250.00), or imprisoned for not more than three months, or both. No person shall be charged with a second or subsequent offense unless such fact is set forth in the affidavit charging the offense. Every person who is convicted of a second or subsequent offense shall be fined not exceeding five hundred dollars (\$500.00), or imprisoned for not more than six months, or both.

(c) Whoever violates G. C. C. 2133.03 shall be deemed guilty of a misdemeanor and, for a first offense, shall be fined not exceeding five hundred dollars (\$500.00), or imprisoned for not more than ninety days, or both; and for a second or subsequent offense shall be fined not exceeding one thousand dollars (\$1,000.00), or imprisoned for not more than six months, or both.

The court may, in addition to or independent of all other penalties provided under this subsection, suspend or revoke for a period, not exceeding one year the license to drive of any person convicted of violating G. C. C. 2133.03.

(d) Whoever violates G. C. C. 2133.04 shall be deemed guilty of a misdemeanor and, for a first offense, shall be fined not exceeding one hundred dollars (\$100.00) or imprisoned for not more than ten days, or both;

and for a second or subsequent offense shall be fined not exceeding two hundred dollars (\$200.00), or imprisoned for not more than six months, or both.

In addition to, or independent of, any other penalty provided under this subsection, the court may suspend the violator's right to operate a motor vehicle or trackless trolley for a period of not more than ninety days for violations of G. C. C. 2133.04 (a), (1) through (4).

Passed : April 18, 1960
approved : April 18, 1960
attest : Richard D. Buehler, clerk
effective: April 18, 1960

Antonio C. Pappalardo
Mayor

Harold J. Morris
Pres. of Council